

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on February 19, 2003 at 5:20 P.M., in Room 5 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Edward Butcher (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Gregory D. Barkus (R)
Sen. John Cobb (R)
Sen. Bob Keenan (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 388, 2/1/2003
Executive Action:

HEARING ON SB 388

Sponsor: SEN. BILL TASH, SD 17, Dillon

Proponents: Steve Rice

Opponents:

Informational Witnesses:

Opening Statement by Sponsor:

SEN. BILL TASH, SD 17, Dillon, advised SB 388 is a major change to the current system. The bill calls for state assumption of district court costs by transferring the functions and costs associated with juvenile probation office staff, youth division office staff, and the assignment of officers assigned to the youth court from the judicial branch to the **Department of Corrections**. The bill has been substantially changed since it was first drafted and he has amendments to further change the bill. He asserted the bill has not been prompted by any individual concerns, although there had been individual concerns that pointed out some inconsistencies in the system the way its been working. The bill provides some areas of opportunity to improve the system, to eliminate some inconsistencies, and provide for accountability, that in some cases, has not been up to the level it could and should be, he claimed. The **Corrections Advisory Committee** in the interim came up with several suggestions that have been subsequently incorporated into SB 388. One sets up a central screening committee but keeps people involved in the system in regards to youth placement. He maintained the argument that youth would have to go before a judge is overstated. The Youth Advisory Committees would continue under the bill. His main concern is what's best for the youth. He said there was talk about the bill being all about the money but he warned it has to be about the money to achieve a balance of what is spent for any kind of service and its cost, and how to be most cost effective in providing the service. He asked the bill to be re-referred because of the fiscal impact. He did not sign the fiscal note because he did not agree with all the assumptions. Relief of transportation costs to the counties is not adequately noted. The **Department of Corrections** agreed to assume those costs as part of their budget. He asserted the bill is a work in progress and some of the other administrative costs would be better incorporated into the Juvenile Service Division of **Corrections** who would be better able to answer the concerns that had been noted. It would hopefully be incorporated into a system that would provide continuity and consistency.

Proponents' Testimony:

Steve Rice, representing himself, read from written testimony.

EXHIBIT (fcs37a01)

Opponents' Testimony:

Justice Karla Gray, Supreme Court, advised she is the chair of the **District Court Council** by legislative action last session and it is in that capacity that she rose in strenuous opposition to SB 388. The bill would have adverse impacts on 15,000 to 16,000 Montana kids a year. She asserted that SB 388 is a bill about kids, not a bill about money. It is a 30 year backwards step in the fundamental philosophy of the state of Montana about how to treat kids. It's a bill that will reverse the entire thrust of the Youth Court Act, which is to keep Montana's kids away from any connection to the **Department of Corrections**, except as a final resort. She said it was the final resort that **Pastor Rice** was speaking about--Pine Hills Correctional Facility or Riverside Correctional Facility. The Youth Court Act is one of the legislature's most beautifully crafted and balanced legislative and statutory achievements, she believed. She urged the committee to continue the system that serves Montana kids and their families so well and which does so by involving Youth Placement Committees; local people in various communities come up with the best decisions regarding local youth. She advised it is not a perfect system, and no human endeavor will ever be perfect, but it is a system totally committed to kids. The same cannot be said of the corrections department, she held. The Youth Court System isn't broken and it is not necessary to fix it. SB 388 was originally intended to be a very different bill, she maintained, based on a specific case out of Dillon. It somehow got switched into the approach in the current bill without the approval of the mom and dad who originally sought **SEN. TASH'S** help. That mom, **Deb Strohmeier** was not courteously treated by an administrative staff person. **Justice Gray** has since apologized, didn't know of the meeting and should have, but was never told. She outlined her responses to a paper supporting moving Youth Courts to the **Department of Corrections**. **EXHIBIT (fcs37a02)** She addressed inconsistencies saying the system is designed to treat individual kids and not to create boxes in advance and shovel kids into preexisting boxes. Those inconsistencies are a good thing for Montana's kids. The amendment **SEN. TASH** referenced is an amendment to reinsert the Youth Placement Committees which have been repealed out in the bill. She suggested the amendment would be discussed in some future time in executive action but the amendment is not nearly enough to fix the bill for Montana's kids. Services were never intended to be provided seamlessly. Different kinds of services were intended for kids that don't

have to be fed to a correctional facility and that is what the Youth Court Act is all about. Of the 16,000 plus kid's referrals to the Youth Court in 2001, only 135, 8/10 of 1%, were ever committed to a correctional facility because the Youth Court Act Works. She addressed the issue of efficiency and the idea the bill would decentralize administration. She held there is no centralized administration of the Youth Courts other than payroll, paying bills, and purchasing. The bill would create a new structure that she submitted need not be created and would be expensive. She advised measurable goals are cookie cutter approaches and entirely at odds with what the legislature designed and what works so well. She understood why **SEN. TASH** did not sign the fiscal note. In contrast to the \$1.5 to \$2 million that was originally on a position paper from the **Department of Corrections**, the net impact on the general fund balance would be a biennium cost of just over \$50,000 in FY 2004 and FY 2005. She pointed out *{Tape: 1; Side: B}* the fiscal note uses round numbers and contended round numbers are valueless and there is no basis provided for the numbers. On page 5 of the fiscal note in the technical notes, she submitted these are the places for potentially very significant and substantial costs.

CHAIRMAN ZOOK advised the fiscal note is drawn on the original bill and doesn't reflect amendments that may be placed on the bill.

JUSTICE GRAY reasoned it was the only bill they had at the moment and she didn't know if she would have another opportunity to comment. She addressed the transportation portions of the bill and that somehow the bill was going to get the transportation costs off of the backs of counties. She asked, if the committee was to go that far with the bill, that they look closely at the provisions of the bill with regard to transportation. All pre-adjudication transportation costs remain at the county level, she clarified, absent amendments or other changes. She advised this is a bad bill for kids and urged a do not pass or indefinitely postpone recommendation and not to refer it to a subcommittee.

Debra Strohmeier, testified she is an educator, a librarian and the mother of two teenage children. In January of 2000, she and her husband called local police when her then 15 year-old son, who did not have a driver's license, took their car without their permission. He had no prior convictions and was compliant at home. The parents believed their son needed help and the county authorities would help him. They are caring parents and their rights as parents have never been judicially terminated. They have been judged as competent parents in courts of law. When they attempted to suggest placement for their son closer to home, it was rejected. They noticed a pattern that the more they

desired input in helping their son, the more their rights were taken away. Their son was placed out of state for 15 months in a residential treatment facility where he was twice abused by staff. Many Montana youth had similar experiences at this same facility, she claimed, and it was investigated. Promises were made to return or send her son home but they were not followed through. When they alerted state and federal advocates to their concerns of the mistreatment of their son, their rights were completely taken away and they were not even allowed an advocate or an attorney to attend the placement. They were not allowed to take their son to get an independent mental health evaluation nor for him to attend an appointment they had made with a medical doctor. They were not granted due process. They were ordered to pay over \$20,000 towards placement and treatment for their son; yet because they objected to improper and unethical treatment, the process of transitioning their son back to their home was virtually non-existent. This continued for over two years until their son was transferred to another state illegally when the guardian ad litem was appointed to the case. The **Department of Family Services** in the state he was transferred to determined her son did not need treatment in the facility where he was wrongly placed. A court of law judged her husband and herself competent parents and immediately their son was released to their custody. Because the Youth Court Act does not provide a grievance procedure for competent parents or specific language stating the limitations of people having custody of adjudicated youth, she and her husband met with some advocates and **SEN. TASH** in August of 2002. It was established at the meeting that language needed to be added to provide for rights for adjudicated youths and competent parents of the youths. **SEN. TASH** submitted a bill draft in January that included language added to the Youth Court Act. At no time did the **Department of Corrections** become involved in the case when her son was in the Court's custody. She and her husband strongly oppose the **Department of Corrections** taking over the management of Juvenile Probation Officers and SB 388. The language of the bill is setting a dangerous precedent, she contended. It would be devastating for Montana youth and their families. It in no way represents what the bill draft originally intended to do. She felt it important to remember youth who have been adjudicated and are in the custody of the court and who have no prior convictions, such as in her son's case, need to be kept separate from those youth who have committed more serious crimes and are committed to the **Department of Corrections**. Youth of competent parents need to be transitioned back to their families as soon as possible, not only for the family's welfare, but for cost effectiveness. There must be an impetus to rehabilitate youth back to their county and family of origin if possible. She felt it very important that the "least restrictive environment" should be clearly defined in

the Youth Court Act. There is no definition currently. She favored the **Department of Corrections** managing their own facilities and leaving the courts to manage their employees and facilities. She would support a bill that adds amendments to the Youth Court Act providing for children's and competent parent's rights and allowing more funds for local services, training for state employees, language for employee accountability and providing impetus for the court system to manage their citizens. She said it was very important that parents or guardians be members of the Youth Placement Committee.

Marko Lucich, Chief Juvenile Probation Officer, Second Judicial District, read from written testimony. **EXHIBIT(fcs37a03)** He presented letters of opposition from **Sheriff John Walsh, District Court Judge John Whelen, Superintendent of Schools Chuck Uggetti, Butte High School Principal Glenn Johnson, Dave Rosenleaf, County Attorney Bob McCarthy and Deputy County Attorney Eileen Joyce, County Superintendent of Schools Ed Heard**, also a member of the **Youth Placement Committee and Citizens Review Board, Dennis F. Dolan, Sr., Judy Dolan, Larry Noonan and Carter Anderson**. **EXHIBIT(fcs37a04)**

CHAIRMAN ZOOK asked proponents to please address the bill.

Nancy and Bob Staigmiller, Absorokee, read from written testimony. **EXHIBIT(fcs37a05)**

John Larson, District Judge, advised the first youth court in the world was started over a hundred years ago in the state of Illinois by an agreement and then by legislative action. The Chicago Women's Club, a judge and the Illinois legislature thought children should be treated differently from adults. He said the idea flows naturally from the history of jurisprudence. The French first started to define children differently from adults in the fifteenth century. In the English system there was a presumption that under age seven, one had no capacity to act on one's own, and in between the ages of seven and fourteen there was a presumption one couldn't act on one's own. The first youth court began taking kids off the street and trying to rehabilitate them in the community. Montana has followed the other states in the country and kept it with the courts. It is truly a court system and has always been that way. He stated he is on the Board of Trustees of the National Council of Juvenile and Family Court Judges. At the very first conference he went to as a juvenile judge, he met a representative from Montana's **Department of Corrections**, the administrator at Pine Hills at that time. He knows Pine Hills is committed to the well being of kids and the people at Pine Hills know judges in Montana are doing the best

they possibly can for the kids. When **SEN. ROYAL JOHNSON** was a representative, he undertook a huge labor to coordinate major provisions to the Youth Court Act that flowed from an interim study, and to work out compromises. He noted they didn't fix everything in 1997 and no one thought they would. They had a large committee, large public participation, and they worked out the kinks. Last session there were major revisions providing for the cost containment fund. The judge served as chairman of that group, a combination of probation officers, **Department of Correction** officials, providers, and mental health folks. They looked at the foster care budget, which is somewhere between \$5 and \$7 million. If anybody runs out of money they have to come to the group for approval and there is \$1 million in reserve. The very first year they were in existence, there was well over \$500,000 saved and a supplemental was not needed. Every other year, there has been a request for a supplemental for the Youth Foster Care budget. It was a balanced, combination effort where everybody has input. SB 388 does away with that committee. In the second year, with budget cuts, they have a surplus of about \$800,000. By the end of the year, they would probably be turning money back to the general fund. They are looking for other ways of saving money for the state. Part of the cost containment effort is getting other agencies to contribute. That spreads the costs out and they get some federal matching dollars. The money for moving kids in **SEN. BOB KEENAN's** multi agency children's committee bill last session came out of the cost containment placement. *{Tape: 2; Side: A}* Under Section 17 any referral from an agency can be investigated, leaving a wide open door to get into areas that don't need to be gotten into. Their officers are trained and don't need any on-the-job training or new regions to make work what is already working well. The system is not perfect and **Mrs. Strohmeier** makes an excellent suggestion, he contended. When **SEN. TASH** had the initial draft of LC 931, **Judge Larson** was asked to comment by one of the drafters, and he thought it was fine to have a section on parental rights. He has a lot of experience in what happens when a state agency takes children out of families homes, and feels another state agency doing that is not needed. There is no comfort from the parent's point of view when anyone talks to them about their kid, but a parent won't go to a state agency to ask for help the way local probation officers are approached, he held. He maintained that's why 49 other states still have youth courts that are based in the court system. As far as cutting down on any legal expenses, the bill will only complicate it. Recent Supreme Court opinions do not include any on juvenile issues, but there are a lot on other state agencies that deal with kids. That is another indication there are not a lot of these cases being processed through the courts. They're being handled at the lower level, which is cheaper, more efficient and prompt. He suggested the cost

containment process is enhancing all of the local resources that started many years ago and it provides a lot of flexibility. The Youth Court can put money in a prevention program and doesn't have to wait for a kid to get into that program to fund that particular kid, it can fund that prevention program. But it has only so much money, and when they're out of money, they're out of money. Counties are using that money to enhance local resources. There is a partnership with the **Department of Corrections** and it's not a contest. They do excellent work in their correctional facilities and juvenile probation officers do excellent work in their communities. Judges are elected and there is a level of accountability. The judges and youth courts have brought incredible amounts of grant money into the state. By transferring the system, they lose the ability to apply for those grants and seek those additional resources. He favored Section 7 in the bill concerning parental rights but stated the wholesale revision was not needed. Legislators worked hard on the Youth Court Act and input received over the last thirty years is reflected in the current system.

REP. TIM CALLAHAN, HD 43, Great Falls, opposed SB 388 and advised he has been a juvenile probation officer for over 20 years. He supported previous testimony and strongly urged a do not pass motion.

REP. SCOTT MENDENHALL, HD 39, Jefferson County, rose in opposition to the bill. In his district there is a business known as Alternative Youth Adventures, a business that is part of the Youth Placement Fund companies. He had research done by the legislative auditors and offered to share that with the committee knowing the committee is concerned about funds. He said it is important to understand the correctional program is comprised of Pine Hills, Riverside and the Transition Center. The same administrator has oversight of the Juvenile Placement Funds. There are two different audiences--correction kids and probation kids, and two very different kinds of programs and approaches to taking care of kids. The auditors division shows the correctional side of the budget has been reduced in the low single digits and the probation side has been reduced by 44% in the last two years. The priority in caring for these kids is in preserving the correctional side. He advised both are needed and a better approach is LC 1432 that will be coming out after transmittal, which moves the oversight of the money of the Youth Placement Fund to the Supreme Court.

Richard Meeker, Juvenile Probation Officer, First Judicial District testified he represents the Juvenile Probation Officer Association in Montana. He advised receiving a call from **SEN. TASH** and appreciated the call as it was the first time he had a

chance to talk to anyone about the bill outside of the association. The birth of the modern juvenile justice system in the state of Montana was established in the passage of the Youth Court Act in 1974. Since that time many changes have occurred in juvenile justice as a profession in the state, however, many aspects of the brilliance of the organizational system remain the same. There are now 22 judicial districts within the state and each district has a district judge that administers the youth court and supervises the juvenile probation officers. Each officer answers to the judge who is an elected official and who is responsible to the community. It is these ties to the community that provide the court and the juvenile justice system a solid base to carry out the intent of the laws of the state of Montana. Each juvenile probation officer has the responsibility to work with youth who have violated the laws of the state of Montana and community expectations. Juvenile officers work with the youth, their parents, victims and community members in order to establish a response to the youth behavior that is balanced and offers the opportunity for the community and the victim to be part of the process. The strengths of the juvenile justice system in the state of Montana are in association with the courts and its ties to the community. He believed the success of the juvenile justice system is self evident in the number of persons gathered to support the present system. SB 388 has been described as creating a single system that will address the needs of juvenile offenders in a cost effective and expeditious manner and that will serve the needs of the state. However, he contended, there are other needs besides the state of Montana that must be considered, and those are the needs of the community, the victims, and the parents as well as the youth. It is quite possible if SB 388 becomes law that a seamless system as described will become a pipeline for youth entering into the juvenile justice system, sweeping him along continually into the correctional system itself. He stood opposed, along with his association, to SB 388.

Dorothy McCarter, District Judge, First Judicial District, opposed the bill for the reasons already stated.

Vicki Nelson, Juvenile Probation Officer, Bozeman, opposed SB 388 for the reasons stated in previous testimony and is joined in her opposition by **Gallatin County Commissioners John Vincent, William Murdoch, Jennifer Smith-Mitchell. EXHIBIT(fcs37a06)** The opposition by the commissioners was unanimous and bipartisan. She proclaimed the opposition to the bill of **Gallatin County Attorney Marty Lambert,** and co-workers **Nancy Logan, Dave Wysoski, Gwen Massey, and Eric Ryson. District Court Judges Mark Guenther and Mike Salvagni** also oppose the bill and she presented a letter from them. **EXHIBIT(fcs37a07)**

Pam Gilbert, representing children and mothers, supported the current system and advised she has two teenagers. When they were 14 and 15 they behaved badly but weren't real criminals. Later one got a G.E.D. and the 17 year old is in high school. They were able to pay their fines by doing community service and found out what the community expects from them by having somebody that spoke their language.

Stephanie Rithmann, Community Juvenile Justice Council, Helena, testified as a citizen and staff person who works with 25 volunteers in the community who volunteer their time to facilitate mediations and conferences between juvenile offenders and their victims. She opposed the bill for reasons already stated and advised it takes a village to raise a child; each child is unique and needs ways of repairing the harm they did that are unique to that particular situation. She opposed the bill primarily out of concern the village would be lost in the process. It is the village in the community of Helena that makes juvenile probation an effective process for children, she held.

J. D. Lynch, Butte-Silver Bow, opposed the bill and thought it was a step backward.

Kurt Krueger, District Court Judge, Second Judicial District, Butte, advised the committee had been handed a letter from **District Court Judge John Whelen** in opposition to SB 388 and **Judge Mizner** from Anaconda also expressed his wishes to be on the record in opposition to the bill. The earlier speakers covered most of the issues and the district court concerns and he strongly urged defeating the bill.

Jim Smith, Montana County Attorney's Association and Montana Sheriffs and Peace Officers Association, advised he didn't want to oppose a bill being carried by **SEN. TASH** or be in opposition to the good people at the **Department of Corrections** but the more sheriffs and county attorneys read the bill the less they liked it for all the reasons previously stated. He commented the sheriffs are now responsible for transportation of juveniles; the bill relieves them of that responsibility and that would be a good thing for the sheriffs. The sheriffs weighed the pluses and minuses and came down on the other side of this one. If they have to continue to transport juveniles, that's okay, rather than perhaps putting kids in a pipeline to the **Department of Corrections**. Even though that's not intended, that could be the unintended consequence.

Jim Campbell, Montana Chiefs of Police, opposed the bill.

Jamie McCall, Montana Children's Initiative, testified she chaired the Youth Justice Council for seven years and sat on the Board of Crime Control for seven years and stated the Initiative is absolutely opposed to the bill. She also went on record for the opposition of **Charles Brooks** for **Yellowstone County**.

Bryan Douglas, representing himself, testified he got involved with a kid as a mentor through the Montana Youth Challenge Program. The youth was referred to that program by the Youth Court, committed some offenses after he got out and ended up in Youth Court again. Mr. Douglas stated he didn't know what a parole officer or a probation officer was before today. He didn't know much about the bill or the finances of it and didn't really care about the jobs and the departments. He wanted the committee to know what he thought was working in the system and to the extent the bill changes that, he opposes it. The system works because it deals with a very individual level. The probation officer had a lot of authority, and is close to the kid. The kid he was involved with is now living with him, has a job, and is planning on going to the university this fall; last fall he was in the hospital with alcohol poisoning. He held these kids are moldable and its better to have the caring people at a level close to those kids instead of pushing them through a system that seemed to him is a lot more of a cookie cutter approach. He favored keeping the authority and the capabilities at the level closest to the work and keeping in mind these kids are not adults; they are moldable and changeable.

Chris Christiaens, Montana Chapter of National Association of Social Workers, testified he was a member of the subcommittee that worked in 1997 along with then **REP. JOHNSON** who chaired the committee and now **SEN. DAN MCGEE**. He suggested talking long and hard to these other members as to what went into the development of the Montana Youth Court Act during that session. In 1997 they met with many people including parents, families, courts and other individuals with an interest in our kids. This bill would remove all of that. Once kids are placed into the **Department of Corrections** they are stigmatized. The majority of these kids who get into trouble today do not go on into some aspect of confinement in the correctional system and once they have, if you move the entire operation into corrections, the focus has been changed for that youth for the rest of their life. He urged killing the bill and if anything, to add some parental authority.

Anita Roessemann, Attorney Montana Advocacy Program, advised they advocate for children and adults with disabilities including children with serious emotional disturbances. **MAP** is one of two advocacy programs, along with **Deb. Strohmeier**, that asked **SEN. TASH** for the bill and she stated there are still two marvelous

nuggets in the bill in Sections four and seven. She submitted written testimony. **EXHIBIT(fcs37a08)** She advised the bill went through a lot of changes in five weeks of drafting which is a very short period of time and people weren't involved outside of a very small circle. The bill amends 44 statutes and repeals 20. As much testimony as had been heard on the shortcomings of the bill, she doubted all had been heard as she didn't think anybody has had enough time to study all the implications of these tremendous changes.

Jennifer Smith-Mitchell, Gallatin County Commissioner, advised she is also chairman of the **Southwest Region Juvenile Detention Board**. She presented an organizational chart of Gallatin County prior to district court and other state assumptions and what happened after SB 176 and HB 124. **EXHIBIT(fcs37a09)** She stated the good thing is elected officials running the programs. The district courts are under the voters and the budget authority is under the county commissioners who work closely with district court judges who hire the youth probation officers. The state Supreme Court took over the district courts and Youth Probation, but the Supreme Court is elected and there is accountability. The Supreme Court has worked with county commissioners as closely as the district court and have actually encouraged cooperation on the flexible money. She had to learn the juvenile accountability grant and all of the funds and matching funds by osmosis because it is so complex. It takes cooperation and flexibility and what works for one county doesn't work for another. Youth are changelings, she stated, and require that flexibility. Going to a state department, there is a lot of standardization and the direction of the **Department of Corrections** is an entirely different focus. She did not believe there would be flexibility. County commissioners work very closely with youth probation officers in figuring out the best way to spend their meager funds. Youth probation officers are very positive people and have worked to utilize electronic bracelets or whatever it takes to work within the budget. She cannot fathom having the Youth Court go under a state agency that does not have direct elected official accountability or direct elected representation. She could not imagine how it would work and hoped the committee would reconsider the whole concept. She hoped they would use the chart in considering some of the other legislation that proposes to take away control of county government.

Tom Rillken, Deputy Juvenile Probation Officer, indicated he was testifying as an individual citizen and father of three. **{Tape: 2; Side: B}** He stated opposition to the bill and provided a letter of opposition from **Kathy Schultz**, the mother of a youth in his caseload.

Russ Genaw, Chaplain, testified he worked with the Youth Court as a mediator and had gone through their training program in order to keep young people out of the courts. He worked with **AYA** for over six years. He appreciated his fellow chaplain's testimony about Pine Hills, but Pine Hills is still a designated area when other things can't be done for young people. He has done ride alongs and youth court officers know the local people. Breaking it down to six regions would be cookie cutter. He is also a jail chaplain for eighteen and over and is always letting youth know they don't want to make that next decision. Corrections has enough trying to deal with adults without taking on this program.

Moe Snell, Local Youth Placement Committee, agreed with most of what had been said and stated opposition to the bill. He felt the system is seamless enough. Only 135 kids a year see any kind of seam whatsoever and that is less than 1%. He did not know how to get more efficient and better than that; more than 99% of kids don't end up in corrections.

Donna Marmon, Juvenile Probation Officer, Fourteenth Judicial District, testifies her district includes Musselshell, Golden Valley, Wheatland and Meagher County. She stated total opposition to the bill for all the reasons previously stated. They have developed community based services in small communities and have been able to serve young people and parents in a much better way the last few years. The bill would do away with all those community based services. She presented a letter from **Judge Joe Hegel, Miles City, EXHIBIT(fcs37a10)** opposing the bill, from Fergus and Judith Basin County officials **EXHIBIT(fcs37a11),** and also letters from **Judge Randall Spaulding, Fourteenth Judicial District** and various people in the four counties who oppose the bill. **EXHIBIT(fcs37a12)**

Joy Mariska, Director Court Services, Billings, testified she was there on her own time and at her own expense. She noted she is a Montana native whose family has been in Montana for five generations and she has been in public service all her adult career. Her concern was not what department she works for but about the kids and one of the cornerstones of Youth Court is community development. One of the most important ways the community helps is through the Youth Placement Committees. The idea for those committees to be eliminated shows how seriously wrong the bill is for kids and communities. Through the District Court Council, a resource allocation committee has been formed and she is part of that committee. They have tried to look at all the services provided throughout all the judicial districts, all the resources they have or don't have, the way they do things, the different programs that are offered as well as how

they manage both the formal and informal processes. She stressed consistency really does exist. Individualized care should not be misconstrued by people that don't understand how the youth court really operates. There is a fundamental difference between working with adults in the **Department of Corrections** and how Youth Court views things. Most kids are seen only one time and about 75% never come back. Their offenses are relatively minor but can build to more things if not appropriately addressed. They work hard to provide individualized services for those kids so they don't progress further into the system. Less than 1% need the care the **Department of Correction** provides in their correction facilities. She maintained the department does a good job with the 1% and provide good programs and services. Judges hold them accountable, set the standard and provide guidance and oversight. Judges are elected officials and answer to their local communities and have been the champions for a lot of the programs developed. **Judge Diane Barz**, in particular, has spent her whole career working for kids. District court judges also serve as youth court judges and are committed to the youth court. SB 388 takes the youth court in a dangerous and unnecessary direction. Each time changes are made in the Youth Court Act, unintended consequences result, she advised. In the current model used by youth courts, things run pretty well and some inconsistency is there by design. If SB 388 is intended to hold juvenile probation officers accountable and improve consistency, its not necessary. They already have those things to their credit. She asked the welfare and supervision of kids be left to youth court judges and the probation officers who work for them and to not interrupt a system that has worked well for a long time. SB 388 is not good for kids, courts or communities, she held. She presented letters of opposition from district court judges. **EXHIBIT(fcs37a13)**

Glen Welch, Chief Probation Officer, testified regarding programs developed through grant processes that are meant to keep kids in school. A school probation officer developed a collaboration of safe schools and healthy students grant for school systems. **Mr. Welch** is a half time probation officer in the middle schools. Their drug court has been nationally recognized for helping service kids with chemical dependency problems and a home arrest program with intensive supervision. In Missoula County, an average of about 25 kids a year are sent to a correctional facility. Since instituting the intensive supervision program, that has been reduced by 50%. A pre-trial supervision program supervises kids before they get to court was developed through a grant. Because of the volume of kids and only five probation officers, they had to develop other ways to help. There is an intensive counseling program using university students trained to have a minor caseload. Programs such as these have been

implemented in offices around the state to help youth stay in the community but still be accountable for their actions. Programs have been developed to suit the community where they are implemented. Some programs work in some communities but not in others. He read from written testimony **EXHIBIT (fcs37a14)** He stated further that when he started his job in 1974, there were aftercare programs around the states. Because of adult prison problems, those aftercare homes were shut down. Transition centers were opened but now have dwindled to one. He strongly disagreed with the bill and presented letters of opposition to the bill. **EXHIBIT (fcs37a15)**

Joe Connell, Chief Probation Officer, testified he was there on his own time and at his own expense and opposed the bill. He participated as a member of the committee that **SEN. WALTER MCNUTT** chaired on the transition of district courts including youth court staff from counties to **Supreme Court** and state general fund responsibility. He was a proponent of that having had a number of years experience as a youth probation officer in two rural districts. People who devised the Youth Court system were sage and wise and decided how the judiciary could deal with youth in a manner that keeps them out of the correction system. The committee worked together with the **Department of Revenue, Administration**, and at times **Corrections** along with numerous legislators and judges. The committee saw it was a wise decision to transfer the district court expenses from the counties, including youth court staff, to the Supreme Court. Public defenders and court reporters are exceptions and the only other exception is the secure detention responsibility. As Chief Probation officer he carried that responsibility up until last June 30, which then transferred to the sheriffs in districts all across the state. They worked with corrections on the placement budget and for a long time he thought that was a good working relationship. Two years ago the probation officers and the judges agreed to enter into the juvenile intervention project and take responsibility for managing the funding for each of their districts. He felt it worked well and believed they met their commitment and are effective. He testified the legislature made the right decision and the district court is in the right place. With the funding being resolved, the issue of the counties eventually experiencing the relief they have looked for will become a reality. Since July 1 individual officers brought phenomenal amounts of grant money into their districts. If responsibility is transferred to the **Department of Corrections** those grants would not be a part of the solution. Six months into the program is enough time to show the youth intervention project has been effective. He presented letters from Jefferson County commissioners **EXHIBIT (fcs37a16)** and a letter from **Judge Tucker EXHIBIT (fcs37a17)**.

Glen Gregor, Laborers Local #254, testified some of his members who are juvenile probation officers asked him to speak and he was there on his own behalf and at his own expense. He stood in opposition to the bill.

Rayelynn Connole, Alternative Youth Adventures, testified as a private citizen. She is an experiential educator and a tenet of experiential education says we learn from experiences we're having, and tonight they were definitely having an experience. For the last five years she worked for **AYA**. Their average census is 120 youth served per year and she has had experience with 600 youth in her care. Those 600 youth are not criminals, they are children that have had problems, emotional disturbances, problems in their family, chemical dependency issues and therapeutic needs. Some of the kids end up in corrections but the number is less than 30%. She advised youth court, appropriate community intervention and appropriately therapeutically sound individualized treatment that addresses the emotional underlying needs of the kids work. She advised the system is not broken and needs some revision but that can be done without passing the bill.

{Tape: 3; Side: A}

Kimberly Gardner, Alternative Youth Adventures, testified **AYA** was brought into the state about seven years ago and serves probation youth primarily from youth court. She feels the current model of the Youth Court System is excellent. Youth Court and correction kids are two different kinds of kids, she advised. Some respond to therapeutic interventions and some respond to corrections. Both programs are needed, she held. Since assumption by the **Supreme Court**, juvenile probation officers had been able to get money for their level of care, but prior to that the **Department of Corrections** cut the funding to youth court by 44%. The bill attaches youth court, a type of service for one type of kid, to a correctional program and she advised there is necessary disconnect. It is very important to have separate programs and separate approaches. If the **Department of Corrections** in the last two years cut the funding 44% to youth court, she worried they would continue to cut those kinds of programs and would not support the good work that youth courts do. She was very impressed with how the **Supreme Court** has funded and managed the youth courts in their current system. Because of cuts that have occurred the **AYA** program is closing. Probation officers now have one option if youth cannot be managed in their communities. Before the reorganization at the **Department of Corrections** that was not true. She asked for support of the youth courts in their current status and helping them make needed corrections without making drastic cuts. She urged keeping them disconnected from Corrections.

Informational Witnesses:

Joe Williams, Department of Corrections, advised various department officials were available to answer questions. He advised **Department of Corrections** holds the juvenile placement budget of \$7 to \$9 million per year for all the programs juvenile probation officers are working with in their communities. The department has been actively involved in the formation of the Youth Court Act and they lobbied for the juvenile intervention project. In 1997, the department had to request a \$5.3 million supplemental in juvenile placement funding. He claimed the programs **Mr. Welch** testified about are based on models used in the adult correctional system. He said they are proud of the programs for their juveniles and testified 75% of the adult correctional system is community corrections. Of 10,000 adult offenders, 7500 are in community corrections programs. The same model is followed in the juvenile world under **Mr. Steve Gibson**. The bill as proposed asks the **Department of Corrections** to research the issue and the answer is yes. He claimed it can be absorbed into the **Department of Corrections** with the proposed amendments for between \$1.2 and \$1.5 million over a biennium and he is absolutely confident of that.

Diana Koch, Department of Corrections, claimed she was not there to try to persuade one way or the other about the bill. She alleged the bill does not change the way the juvenile probation officers do business or the way they interact with youth. It does not change the informal nature of most youth court dealings with youth and their adjudications. 99% of youth never get into the court system and this wouldn't change under the bill. The other thing the bill does not do is funnel kids into the correctional system, but still treats kids the way they always have treated them--the ones that need to go to a correctional facility will go, she alleged. She claimed it would not treat kids any different than they're treated right now in the youth court and does not treat them as cookie cutters. Juvenile probation officers will still be able to treat kids the way they have been treating them. The bill segregates the judicial function and the other function of what happens and how to deal with kids goes to another agency. She purported that it "just moves." It took 60 pages, 44 sections and some repeal to do that. It takes the **Supreme Court** out of anything but judicial functioning with the youth. She claimed there is an unintended consequence of the **Supreme Court** assuming the supervision of juvenile probation. She used the example of an adult probationer who kidnaped and murdered a woman in Helena; the family sued the probation officer for negligent supervision, the supervisor and the **Department of Corrections**. She imagined if the probationer had been a juvenile on juvenile probation, the family could sue

the **Supreme Court**. She raised the hypothetical issue of a juvenile probation office getting legal advice from the **Supreme Court** and wondered about the **Supreme Court** hearing an appeal.

Bill Slaughter, Department of Corrections, didn't think this had to be an adversarial situation. He appreciated **Judge Larson's** remarks and if the youth act changes significantly, it would be a bad idea for all reasons heard. He claimed they were asked to prepare information for the bill. They have a plan in place and are willing to work with everybody involved. His responsibility will be to the kids and the JPO's, and the department will provide some leadership, resources, and training.

Questions from Committee Members and Responses:

SEN. JOHN ESP asked **REP. CALLAHAN** where in the bill a sea change takes place and what parts of the bill he didn't like.

REP. CALLAHAN replied the transfer of function from under the **Supreme Court** under the **Judicial Branch** of government to the executive branch is the objectionable part.

SEN. ESP asked what part of the bill changes the way he does his job.

REP. CALLAHAN believed there is a fundamental change when looking at the functions of the judicial branch of government and the executive branch of government. The youth courts were brought up under the judicial branch of government for specific reasons.

Judge Larson spoke to that when he explained some history. Relationships between probation officers and the judges for whom they work provide the best opportunities to deal with youth and the community. It is not a centralized state function and communities have issues. The judges are elected officials and appoint their staff similarly to the legislature. A similarity could be drawn that the executive branch already has people who can draft legislation, and do research, so why does the legislature need their own staff to do those functions. The executive branch can provide it to the legislature. This is a judicial function, it has grown up as a judicial function, and moving it to the executive branch of government changes the very basics of what they're doing, he maintained. The basic job functions of a juvenile probation officer and an adult probation officer are very similar, but so are the staffs of the executive branch as compared to the legislative branch. Jobs look similar; functions are different.

SEN. ESP asked if **REP. CALLAHAN** was an employee of the judicial branch prior to the state assumption of district court expenses.

REP. CALLAHAN advised he was appointed by the district judge in Great Falls. The salary and expenses were paid by the county, but that did not make him an employee of the county per se. He worked at the court's pleasure.

SEN. ESP asked if the county cut the check for all the other court expenses.

REP. CALLAHAN advised the county relationship to the court was varied in that the judge's salary is paid by the state and the other expenses are paid by the county, although there was probably some state involvement relative to the public defender's office or indigent defense.

SEN. ESP asked if it would still be a bad thing if all the bill did was change who wrote the paycheck and nothing else about the function and the relationship with the judicial branch.

REP. CALLAHAN said that is what happened with state assumption. They remained under the judicial branch of government and rather than a check from the county, the check came from the state. That is not what this bill is about.

SEN. ESP noted testimony about making this a better system and asked if in the end all this bill did was change who wrote the check and made it a better system, is that something he could support.

REP. CALLAHAN advised he would have to look at it.

SEN. ESP asked **Ms. Koch** about her testimony that the bill didn't change the way everything functions. The bill repeals several sections and those sections define certain functions. He wondered how she could make the assertion it doesn't change anything about how the system functions given the changes that are in the bill.

Ms. Koch said it was her opinion it doesn't change anything because she thought the sections repealed and changed were necessarily changed because the **Department of Corrections**, instead of the Youth Court, assumes some of these functions and she thought all the changes were necessary to move it. The bill adds rights for parents and the basic fundamental way youth are treated and the way probation officers deal with youth doesn't change with the bill, she claimed.

SEN. ESP asked if the sections being repealed in the bill are changed elsewhere in the bill slightly to mesh with the **Department of Corrections**.

Ms. Koch said that was a fair assumption.

SEN. ESP asked if it was possible to boil down the reasons and make them available to the committee.

Ms. Koch advised she would try.

SEN. MIKE COONEY asked **Chief Justice Gray** about unintended consequences talked about by **Ms. Koch**. One unintended consequence was about a hypothetical suit being brought against a juvenile probation officer, using the Helena case as an example. He asked if the **Supreme Court** could hear that case if it was ultimately taken there, and there was an appeal situation as well.

Justice Gray responded to that in her answers to the department's positions. One was their kind concern regarding conflicts of interest and who's going to get sued. She said everyone knows there's always unintended consequences and did not feel that is much of a problem. The case referenced by **Ms. Koch** was not a juvenile case and she did not believe a juvenile probation officer has ever been sued. *{Tape: 3; Side: B}* She had no idea if all members of the court would sit on a particular hypothetical case. It would be the same in that kind of case as in every other case that comes before them. They decide individually if their sitting on a case would create an appearance of impropriety. If they believe it not only would, but even might, they recuse themselves and call in others--a normal course of doing business. She did not think state assumption changed any of that. She addressed the concern of **Ms. Koch** about everyone getting legal advice. She advised juvenile probation officers, district courts, youth courts and the **Montana Supreme Court** do not go around giving legal advice. That is not their job. As far as the functional separation **Ms. Koch** spoke about, she advised the judicial function in the Youth Court Act, as this legislature so beautifully drafted it 30 years ago, is not just the youth court judge. The judicial function is the youth court judge, the juvenile probation officer and the assessment officers. They together are defined as the youth court and that's why the system works so well. It is a judicial function in the youth court act. The place where the bill starts to do the "sea change" is on page 12 of the bill, lines 28-30. It defines the youth court. When you unhook the juvenile probation officers and the assessment officers from being an integral part of the system, there is a whole new ball game.

SEN. COONEY said the department indicated that this bill simply takes the current system and just switches it over to the **Department of Corrections** and he wondered if she agreed.

Justice Gray thought what the bill tries to do is invest judicial functions. They like to talk about separating function but what the bill does, as written, is to try to make judicial officers out of executive branch agency employees, and it will not work, she advised. It is a whole different thing than the adult model, she held. In the adult model the probation officer comes at the end of the road. The Youth Court Act is intended to provide through juvenile probation officers who are an integral part of the youth court to provide these interventions, these community services, and individualized treatment up front. It is an opposite model and it works for kids. She suggested they were trying to separate judicial functions, but what the bill does, in effect, is attempt to give judicial powers to executive branch employees.

SEN. COONEY asked about the comments of **Ms. Roessmann** regarding gems in the bill in Section four and Section seven.

Justice Gray advised she had no problem at all with the change on page 8 subsection four under 41-5-102 lines 16 and 17. The other change is on page 14 in new Section seven, line 12 regarding parental rights and to the extent that it provides parental rights in the context of the existing Youth Court Act, but without mixing department employees, she had no problem with it.

SEN. RICK LAIBLE asked **Mr. Williams** about what significant change kids and parents would see if the transfer is made.

Mr. Williams advised there would be accountability. The department has a wealth of statistics on where the money goes, what it provides, what recidivism rates are, how people progress through the system, how programs work and where programs don't work. They would bring the legislature that level of accountability as well with the juvenile system. They would tell exactly and precisely where the kids are, who they are, what the money is going for, what statistics are there, and how they move through the system so the legislature can make informed decisions on what works, and what's best to spend the money on.

Steve Gibson, Department of Corrections, advised he followed the Youth Court Act for 29 years and addressed some statements in the newspapers that these kids are going to be in the adult system. He worked as an aftercare counselor in the community and was there when they closed the group home. It moved from **Institutions** to **DPHHS** and the real reason the group home was closed, was because of fair labor practices. There were live-in group home parents who basically made two cents an hour. The department closed a transition center that wasn't very successful. They have also written up to \$2 million in grants,

of which 95% has gone to the communities and the private sector. They replaced that transition center with grant money. He agreed with **Ms. Stagmiller** and **Judge Larson** but also agreed with what the chief legal counsel said. He claimed he looked at the bill many times and doesn't see the essence of the youth act being changed. He doesn't see how juvenile probation officers will go away, not live in communities, and not work informally, and kids will not have to go through the so called pipeline. In corrections, there were two bills this year--SB 25 and HB 156. HB 156 was to eliminate misdemeanor offenders going to state correctional facilities. In that hearing there were nine proponents and one opponent. The one opponent was juvenile probation and the **Supreme Court**. **Mr. Slaughter** read in the paper about kids being transferred to the adult system and going to prison. He said if that was the case **Mr. Slaughter** and **Mr. Williams** would have been in stronger opposition than was heard earlier. They are releasing prisoners early and they are overcrowded. He claimed they did not support or oppose the bill. The youth division would do exactly what it does now. It has been portrayed that 125 kids go to Pine Hills and Riverside. There are over 300 kids, and the department supervises all interstate contract services. They license all the juvenile detention centers and monitor them. 55% of their budget is community and 45% is secure care. Juvenile probation officers have done a good job but the bill allows for the use of surplus money. The year before the cut there was \$880,000 left in the surplus and \$600,000 left in the contingency fund. The **Department of Corrections** doesn't say where to place, they just oversee the dollars. 18 of the 22 districts did not overspend their money. It is their choice what they request to spend that money on.

SEN. LAIBLE said he didn't think his question was that long. He asked if nothing would change for young people and their parents if the **Corrections Department** writes the checks to the 134 employees that would be moved over. They will still deal with the same people, there will still be a youth court and all the systems in place there are now.

Mr. Gibson claimed nothing changes. Probation officers do not lose their job, they still live in the same place and nothing changes with respect to dealing with families and kids in the community.

SEN. LAIBLE asked **Judge Larson** to answer the same question.

Judge Larson replied there are 22 repealer sections in the bill and it dramatically changes the function of the youth court. All of the partnerships built over the years with parents, other

community members who sit on the placement committee, and all the people who work on the cost containment fund, are out the door with no reason or basis for it. Who these people are accountable to is a big deal, he held.

SEN. LAIBLE asked if the only change the bill did was who the 134 employees received their paycheck from, if he would support the bill.

Judge Larson replied no.

SEN LAIBLE asked why.

Judge Larson replied because they are no longer part of the judicial branch, are assigned to the executive branch of the six regions just like **DPHHS**, completely differently from the way they operate and are not accountable to elected officials. Instead they're accountable to an appointed official. They don't have the history every other state in the country has of being part of a judicial agency as opposed to an executive agency. That is a very big difference and he agreed with **Chief Justice Gray**. In the history of the country there are three branches of government. He used to be secretary of the senate and it would be like asking him as a district judge to run the Senate floor. It's just not right or a function he can do. He is a judge and these are judicial employees performing judicial functions. They are entrusted by all the Supreme Courts throughout the country and the US Supreme Court to do that as long as they carefully protect rights. If that is transferred over to the state police agency, its not going to run the same way.

SEN. ESP asked how the county who used to pay these folks was part of the judicial branch, and why it wasn't part of the executive branch, and what the distinction is.

Judge Larson replied the court had the power to hire and fire. They couldn't hire and fire the county surveyor employees or the county commissioner's employees or county attorney's employees, but could hire and fire the probation officers. They were appointed by court order and the court conducted the interviews and everything else an employer would do, they do.

SEN. ESP asked if Corrections paid them and the court hired and fired them if that would make a difference.

Judge Larson clarified the legislature is the funding agency, the executive branch doesn't have any money on its own--the legislature is the appropriating branch. The legislature appropriates to the agency who employs the employees. He didn't

think there was any other instance in state government where the legislature tells one branch to pay another branch's employees. The legislature pays its own legislative employees, directs the executive branch to pay theirs and tells the judiciary who they pay.

SEN. KEITH BALES asked if these employees are put under the **Department of Corrections** is there any sense of remedy for any of the youth that you could not do under the present system.

Judge Larson advised it calls into question whatever is done informally for these youth. A state police agency, a state executive agency, would be sitting down with the parents and trying to work out voluntary agreements with them. To walk in to an office of the state **Department of Corrections** carries a whole different connotation than what we currently have. When police agencies are inquiring of people there is a whole different criteria applied.

SEN. BALES said he could still see where the bill had the tools to sit down and bargain and come up with agreements.

Judge Larson reiterated that an executive branch agent would make all those decisions and set all those criteria on the informal side and they would have all the bargaining power; the parents would come in the door and say where do I sign to get out. That is not the way our youth court functions and is not the authority the **Supreme Court and the US Supreme Court** have given these courts around the country.

SEN. BALES asked about the mother who had no rights under the current system.

Judge Larson said he supports Section 7 and read it when it was first drafted. He supported **SEN. TASH'S** original bill and Sections 4 and 7 are completely consistent with what he said. Parents need rights when they walk through that door and need to understand that. There had been an instance where it didn't work, and that can be fixed with a statute. **SEN. JOHNSON** can confirm he's more than willing to work on and support that. Without the parents, we are nowhere. The level of comfort of families who've dealt with the other state agency generally has not been very high.

SEN. BALES commented it appeared to him the system didn't protect the parents before and it's being put in law. He believed the **Department of Corrections** is under the same law.

Judge Larson said the section would be in the bill but as parents walk through the door, they know this is the **Department of Corrections**. That has a chilling effect on any parent just like Child and Family Services, a nice name but when they walk through that door they don't get that warm fuzzy feeling when they are asked to "sign here."

{Tape: 4; Side: A}

SEN. ED BUTCHER, SD 47, Winifred expressed confusion about the separation of powers. He thought the court was supposed to be the arbitrator.

Judge Larson referred to 41-5-121 the Youth Placement Committee that has been in effect since at least 1997. The court is the formal side of the process and the judge has no control of the county attorney for the state or the public defender. They can proceed to trial, a jury trial if they want, and try to strike a deal. There are no plea bargains in youth court and the judge has some input into where the youth go. If found guilty, they go before a placement committee that includes a wide range of individuals--someone from the **Department of Corrections**, and a specialist from the **Department of Corrections** that says how much money is available for placement and that is one of the partners that would be unavailable to the youth court. There is a representative from **DPHHS** and sometimes there is matching federal money available which stretches out general fund dollars. There is a mental health professional on the youth placement committee and they talk about the mental health issues. If the youth is a Native American, there is a Native American on the placement committee. There is a representative of the school district as sometimes special ed dollars can be used. There is room for the parents or guardian on the committee. He viewed it as a partnership and the bill strikes it.

CHAIRMAN ZOOK advised in the amendments it is put back.

Judge Larson indicated he hadn't had the benefit of those.

SEN. ROYAL JOHNSON recalled the late night meetings in 1997, some Saturdays and on Sunday, until the union said they shouldn't work legislators on Sunday. He asked about **Judge Larson's** acceptance of Section 7 on parental rights. At that time, the major portion of the audience were parents and the committee gave them parental rights. He asked if the struck sections took away parental rights so Section 7 was needed.

Judge Larson advised there can be instances where parent's rights are ignored. He thought it was easier to have it in statute for

them to refer to. Other than the section the chairman indicates is back in, if there is a youth placement committee with a parent on the committee, that is a right they would have. His experience with voluntary agreements with the other agency, is that its better to have it in statute so a parent can feel they have some rights walking through the door. He indicated he wasn't saying that is the way to pass the bill, he thought Section 7 could be handled without the bill.

SEN. JOHNSON asked if there were occasions where parents had said they didn't think they had any rights.

Judge Larson advised it is very frustrating and humbling for a parent to be involved in the system and they can get real sensitive. They feel ownership with the youth court the way its structured, with the judge and with the probation officer. Sometimes there's conflict, but he believed they trust the courts. He thought if there was a survey of all registered voters and what their feelings are of the courts, the courts will come out pretty high. They have good respect in their communities and trust by the parents because they're there and are elected.

SEN. BALES asked about the deleted sections and what was put back in.

CHAIRMAN ZOOK said they have to be amended in.

Judge Larson stated in the old rules, one testified about the bill before the committee. He wondered about cost containment.

CHAIRMAN ZOOK believed it is in the amendments also.

Judge Larson wondered if they do the job, save the money, build local partnerships and fund local providers and keep them home with their parents, why they would get creamed.

CHAIRMAN ZOOK asked about the conflict of interest issue.

Judge Larson advised they have the ability to refer to another judge. He and the former chief justice were sued for \$1 million. Whether its him, the former or current chief justice or **Ms. Koch**, they all get defended by the same person at the **Department of Administration Tort Claims Division**. He said it was a non issue in terms of the bill. Legislators and probations officers are also subject to being sued. In the old days, probation officers were defended by the county insurance policy and now are defended by **Tort Claims**. If there are conflicts, the Chief Justice decides who the judge will be.

CHAIRMAN ZOOK thought the possibility exists and thought it a little difficult to sue a judge.

SEN. DEBBIE SHEA advised usually when she leaves a committee meeting she might not grasp all the facts about a bill but at least knows who the players are. She expressed confusion about who the players are here. She expressed respect for the department but asserted they didn't sound like an informational group to her, but very much like a proponent. She cited a letter from **District Judge Lauren Tucker** that it is her understanding the request to carry the bill was on behalf of the **Department of Corrections**. She stated she had no problem with that, but thought it should be up front.

SEN. TASH claimed it wasn't at the request of the department and that he put in the bill draft in December; it was in answer to a concern that **Ms. Strohmeier** had regarding parental rights. The bill draft request was broadly titled "Revisions to the Youth Court Act." After consultation with the **Department of Corrections** it appeared to be a bill draft request with a broad enough title to include the things that were suggested as being more than just certain specific concerns such as parental rights. The **Department of Corrections Advisory Committee** in the interim heard a lot of the same concerns in regards to inconsistencies and accountability. He needed the help of the **Department of Corrections** to incorporate all those things into the bill. He felt they were very good recommendations.

SEN. SHEA asked if the department assisted in drafting the bill and **SEN. TASH** answered yes.

SEN. JOHNSON spoke to Section 7 on parental rights being pretty much agreed upon. He wondered if putting Section 7 in the current law and dropping the rest of the bill would satisfy **SEN. TASH**.

SEN. TASH advised it would in that one instance. He thought too often the legislature is too focused on specific changes and miss the opportunity to be more comprehensive even though sometimes its perceived in the first draft that they're going too far. He didn't think that was the case with the bill. He thought Section 7 and Section 8, which identified transportation costs, were done in a more comprehensive way to address the application of the Youth Court Act in a more cost effective way.

SEN. JOHNSON advised one of the things that happens in a 43 page bill sometimes is the good things are lost because everything else is so confusing. Besides what **SEN. TASH** wanted to do, the

bill changes the full court system as its made up right now. It makes severe changes in personnel and under whom they operate. To avoid that problem, he asked if **SEN. TASH** would consider dropping the repeal of the statutes listed in the title and letting the youth court stay in the same physical condition it is now. He wondered if **SEN. TASH** believed the youth court is operating so poorly that changes should be made.

SEN. TASH thought its operating pretty much the way it was intended to under the Youth Court Act, but felt with the executive branch administering to it, its more consistent with the purpose of the Youth Court Act. For those reasons, he felt it best to leave it, even with the revisions suggested for repealed parts of the youth court act, because its done in a way that meshes with the purpose and intent of the overall application of the Youth Court Act. He addressed the concern about Placement Committees and stated it is present law. In Section 41 it is amended to read "the court interdisciplinary child intervention team" and includes the Youth Court, the county attorney, **DPHHS**, the county superintendent of schools, the sheriff. Twelve entities are still a portion of the interdisciplinary child intervention team. That's in present law, but reinforced in the bill.

SEN. LAIBLE asked if **Ms. Koch** could provide a diagram of how the Youth Court system would look under the bill and how it looks now so he could have a comparison.

Ms. Koch said she would certainly try to get him something simple like that.

SEN. JOHNSON asked to have **Ms. Roessmann** speak. .

Ms. Roessmann spoke to Section 7 which guarantees parental rights and said she wished they were talking about Section 7 and Section 4. She wished the people assembled were not trying to protect the Youth Court Act from these sudden changes. She wished instead they were all there to talk about parental rights. She had amendments that she hope **REP. SCOTT MENDENHALL** would include in LC 1432. She liked the language but wondered why 2a was needed. Why should parents of a youth who has been adjudicated and sent to Pine Hills or Riverside not have a role to play in decisions about medications, health care and education for their child. Why would parental rights be terminated by that. She thought 2a wasn't needed.

SEN. ZOOK advised she was giving testimony and not answering a real question.

SEN. JOHNSON advised he just wanted to hear her objections to that particular section.

Ms. Roessmann advised there had been an outpouring of support for the Youth Court Act that Montanans consider a people's rock. It had a long birth and a tremendous amount of work put into it. She felt folks were asking how such huge changes are being considered with such rapidity, without talking to them, which didn't happen.

Closing by Sponsor:

SEN. TASH closed on the bill. The points made are well taken but he felt strongly about what the bill attempts to do and that the bill has a good purpose. He appreciated the folks who had come to testify. He advised the community services are still in the bill and the interdisciplinary team is the way to go.

ADJOURNMENT

Adjournment: 8:46 P.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs37aad)